

## Proposed Entertainment Transportation Rules

The Metropolitan Transportation Licensing Commission (MTLC) shall have the authority to promulgate, implement, and enforce additional rules and regulations pertaining to entertainment transportation (ET) vehicles, provided such rules and regulations are consistent with the provisions of chapter 6.77.420. (C)

### 010. Certificates of Public Convenience and Necessity

- a) Each year the MTLC shall set a date to hold public hearings for the purpose of consideration of any applications to receive a certificate of public necessity and convenience to operate an ET company or to consider requests from existing Certificate holders to increase fleet numbers. Applications along with fee payment must be made 45 days prior to the meeting. If a completed application (including all supporting materials and required documents) is presented after the 45-day deadline, the application will not be considered.
- b) In making the finding for the award of a Certificate of Public Convenience and Necessity, the MTLC shall, at a minimum, take into consideration
  - 1) The number of ET vehicles already in operation
  - 2) Whether existing service is adequate to meet the public need
  - 3) The applicants experience in the operation of an ET company and its vehicles.
  - 4) Applicant's history of violations and/or citations of alcohol laws, noise violations and other non-compliant behavior.
  - 5) The ability of the applicant to comply with the laws and regulations including the equipment and service proposed to be furnished
  - 6) The applicant's financial responsibility and condition.
  - 7) Safety of the public in the operational area.
  - 8) The probable effect of increased service on local traffic conditions.
  - 9) Traffic flow
  - 10) Compliance with existing noise ordinances

### 020. Fees

a) ET Company Initial application fee	\$ 500
b) Certificate of Public Convenience and Necessity fee	\$ 5,000
c) Certificate of Public Convenience and Necessity annual renewal fee	\$ 5,000
d) Vehicle annual fee	\$ 1,000
e) Driver Initial application fee includes the background check	\$ 125
f) Driver annual permit fee	\$ 50
g) Driver permit replacement fee	\$ 20
h) Background check fee	\$ 75

Note: Fees are non-refundable and are not prorated

### **030. Insurance requirement**

- a) Holders of certificates of public convenience and necessity shall maintain commercial general (public) liability insurance, inclusive of contractual liability, in an amount of not less than one million dollars written on an occurrence basis. Insurance shall be issued by an insurance company qualified to do business in the state and naming the metropolitan government as an additional insured.
- b) Such holders shall also maintain commercial automobile liability insurance that shall afford protection to any third-party sustaining injury or damage as a result of the negligent operation of any ET vehicle, with the minimum amount of insurance being as follows for the following types of vehicles:
  - 1) three million dollars per incident, known as combined single limit insurance coverage for small and large buses with 16-person or more passenger capacity,
  - 2) One point five million dollars per incident, known as combined single limit insurance coverage, for modified trucks or less than 16 passengers.
  - 3) One point five million dollars per incident, known as combined single limit insurance coverage, for modified automobiles or less than 16 passengers.

All ET vehicles, regardless of size/category shall have uninsured/underinsured motorist insurance coverage in an amount not less than twenty-five thousand dollars (bodily injury per person)/fifty thousand dollars (per accident)/fifteen thousand dollars (for property damage). All of the above-referenced policies shall be issued by an insurance company qualified to do business in the state and naming the metropolitan government as an additional insured.

- c) Such holders operating tractors or trucks pulling trailers/wagons shall also maintain commercial automobile liability insurance that shall afford protection to any third party sustaining injury or damage as a result of the negligent operation of any ET vehicle, with the minimum amount of insurance coverage being one and a half million dollars per incident, known as combined single limit insurance coverage, and uninsured/underinsured motorist insurance coverage in an amount not less than twenty-five thousand dollars (bodily injury per person)/fifty thousand dollars (per accident)/fifteen thousand dollars (for property damage). These policies shall be issued by an insurance company qualified to do business in the state and naming the metropolitan government as an additional insured.
- d) Any insurance policy issued in compliance with this article shall remain in place at least through the length of the licensing, and for any ET vehicle insured thereunder such policies shall expressly provide that they may not be canceled, except after thirty days written notice to the MTLC.

### **040. Enclosed/Unenclosed Vehicles**

- a) An "Enclosed Vehicle" means any motor vehicle that is fully enclosed by metal, plastics such as plexiglass or Lexan or glass on all sides and on the top/roof. Any vehicle not meeting this definition would constitute an "unenclosed vehicle." A vehicle is unenclosed if any portion of it lacks solid sides and a roof, including all appurtenances attached thereto, including, but not limited to, a wagon or trailer pulled by a tractor, within which passengers are capable of standing and circulating while the vehicle is in motion. For rule purposes, a vehicle "side" must be a full side enclosure of the vehicle and cannot consist of solely a guard rail or railing. It may contain windows capable of being opened, but all windows, excluding the driver compartment if separate from the passenger area, shall be fully closed while the vehicle is in operation with customers aboard and any passenger is in possession of an open container of alcohol. Professionally installed operable vinyl windows may be used but must be

sealable. Enclosed vehicles shall maintain any required emergency access or exits but the emergency access or exits may not be used to avoid the safety goals intended by the enclosure.

- b) If unenclosed vehicles are to be utilized, each vehicle must be shown to be capable of complying with all safety and noise level requirements. Each unenclosed vehicle must demonstrate processes by which sound level is always in compliance when in operation. After the vehicle's initial approval, it will operate for a period of one year on a probationary status to determine if vehicle is capable of being operated within the unenclosed vehicle rule framework.

## **050. Safety**

- a) Entrances and exits of all vehicles must be securely closed when vehicle is in operation. These areas must also have barriers capable of stopping a person from falling through the opening.
- b) The certificate holder's staff shall ensure that passengers understand that they may not and do not open the primary door or any emergency doors at any time during the chartered transportation period.
- c) Vehicles must have additional devices to protect public safety as well as prevent violations of the noise ordinance.
- d) Rails must be used on all unenclosed ET vehicles. Rails must measure 48 inches in height. Rails must be constructed of metal or wood. Balusters (short columns or pillars made of metal, hard plastic or wood) may be present for safety purposes. The top rail must not be large enough to serve as a food or drink resting area.
- e) To enhance safety and encourage traffic flow during peak rush hours, vehicles must travel at a rate of 25 miles per hour or less and may not operate during peak rush hours to be determined by NDOT.
- f) Vehicles must undergo a full mechanical inspection annually. Additional mechanical inspections may be required if determined to be necessary by MTLC staff or the Metropolitan Police Department.
- g) Prior to the use and operation of any vehicle under the provisions of chapter 6.77, the vehicle shall be thoroughly examined and inspected by the certificate holder or a third party in accordance with rules and regulations prescribed by the MTLC. These rules and regulations shall be promulgated to provide safe transportation and specify such safety equipment and regulatory devices as the MTLC shall deem necessary. When a certificate holder finds that a vehicle has met all the terms established by the MTLC, the holder shall certify this under oath to the MTLC director, who shall authorize a permit to be issued.
- h) Any ET vehicle in which open containers of alcoholic beverages or beer are present, with a passenger seating capacity of 15-20 shall have one staff member assigned to ride in the back with the passengers to ensure that the passengers' behavior is compliant with the rules and not unsafe. If an ET vehicle has a passenger seating capacity of 21 or more, and open containers of alcoholic beverages or beer are present, it shall have 2 staff members dedicated to this purpose.
- i) When in operation with passengers the ET vehicles may not exceed 25 mph but if the speed limit for the road on which they are operating is below 25 mph they shall comply with the posted speed limit.

## **060. Compliance Required**

- a) Certificate holders are responsible for knowing and complying with all local, state and federal safety laws, ordinances and regulations whether or not they are mentioned in MTLC rules.
- b) Compliance with all local, state, and federal regulations and rules is required, which includes (but is not limited to) providing evidence of a Davidson County Business License, appropriate Metropolitan Beer Board permits, appropriate Metropolitan Public Health permits as well as other necessary documents.

## **070. Vehicle Operations**

- a) No ET vehicle may operate within 500 ft. of a school or daycare center.
- b) Entertainment vehicles may only operate in the zones established by the MTLC or its staff. These rules may be amended in future to refer to specific zones.
- c) Certificate holders must not permit a passenger to ride on any part of an ET vehicle other than the designated seating area while the ET vehicle is in motion. All ET vehicles in which passengers may at any time be standing while the vehicle is in operation, shall be equipped safety devices, such as hand straps, grab bars, and padded hard surfaces, that meet with the approval of the MTLC Director.
- d) Entertainment vehicles may only load and unload in locations in the public right of way approved by the Metropolitan Government or on private property with the owner's approval.
- e) A driver operating an ET vehicle at the time of an accident involving bodily injury is required to report for a DOT drug screen, within 24 hours from the time of occurrence, at a testing site approved by the MTLC. Failure to report for a screen shall result in revocation of the driver's permit.
  - 1) The following companies are approved for drug testing:
    - i. LabCorp
    - ii. CareNow
    - iii. Quest Labs
    - iv. Concentra Medical Center
- f) ET vehicles may only begin operations after 9 a.m. and must cease operations at 11 p.m. Any deviations from this must be requested in writing to the MTLC Director 10 days in advance of the requested deviation. Where merited, the MTLC Director may grant this request.
- g) In the event of inclement weather, ET vehicles may not operate. Inclement weather exists when the National Weather Service issues any of the following or if ET operators are notified by NDOT:
  - 1) Severe Thunderstorm Warning
  - 2) Tornado Warning
  - 3) If either snow or ice is present on the roadway surface, operations should be halted until the notice is given by NDOT to allow operations to resume.

## **080. Vehicles**

- a) Vehicles operated under MCL 6.77 shall be divided in categories as follows:
  - 1) Buses
    - i. Small Bus with up to 15 passenger capacity

- ii. Medium Bus with 16-to-30-passenger capacity
  - iii. Large Bus with 31-or-more-passenger capacity
- 2) Modified Trucks
- 3) Modified Automobiles
- 4) Tractors
- 5) Trailer/Wagons

- b) Each vehicle while in operation must remain in compliance with all federal, state, and local regulations as well as all rules established by the MTLC. Each vehicle will be inspected in the manner specified by the MTLC staff.
- c) Certificate holders must attest under oath that the vehicle has met all regulations and rules established in Chapter 6.77 of the Metropolitan Code of Law as well as the MTLC or its staff.
- d) The vehicle must be equipped with a fire extinguisher marked with the vehicle number and the location of such equipment shall be marked and clearly visible.
- e) The vehicle must be properly marked with the company's name displayed in letters not less than 6" on both sides of vehicle. Lettering must be painted or otherwise permanently attached (no magnetic signs).
- f) The assigned number must be displayed in letters/numbers not less than 4", located on the rear quarter panel behind tires on both sides of vehicle.
- g) Certificate holders must have each vehicle inspected and approved for operations by an authorized third-party vendor.
- h) The list of approved vehicle inspection vendors includes:
  - 1) West Power Services, 117 Tredco Dr, Nashville, TN 37210
  - 2) At the discretion of MTLC staff, additional inspection vendors may be added.
- i) Vehicles may not operate until approved inspection documents are filed with MTLC staff.

#### **090. Sound**

- a) Compliance the noise ordinance in Title 9, chapter 20 of the Metropolitan Code of Laws is required.
- b) Entertainment vehicles must have installed devices which are able to monitor and govern all sound amplification. These devices must be able to be "locked" to allow no tampering or raising the sound above approved levels.
- c) Sound monitoring devices must have the capability of documenting sound level above the approved levels.
- d) No amplification devices including speakers may be aimed outside of the vehicle's interior.

#### **100. Alcohol**

- a) Certificate holders may not allow service or consumption of alcoholic beverages unless the certificate holder has been issued a permit from the Metropolitan Beer Board.
- b) The certificate holder shall be responsible for verifying that all passengers are 21 years of age or older.
- c) If passengers are under 21-years of age, the certificate holder must ensure that a chaperone be designated for the duration of the chartered transportation period and shall require that chaperone to:
  - 1) Sign a form provided by MTLC which outlines the duties and responsibilities of the chaperone.

- 2) Notify the driver if, at any time during the trip, a person under 21 years of age consumes alcohol.

#### **110. Miscellaneous**

- a) Driver must be in uniforms as described by the company in its application.
- b) All entertainment vehicles must be equipped with GPS devices and the data from these devices must be stored in such a way as to allow the MTLC and/or designated third party to be able to capture data related to operations.
- c) All entertainment vehicles must be equipped with cameras which record activities outside the vehicle in the front and the back. These video and/or photographic records must be maintained for a period of 30 days and be available to MTLC staff or the Metropolitan Police upon request.

#### **120. Violations**

All provisions of chapter 6.77 shall be governed by the Enforcement provisions of Section 6.77.390 thereof, which provides:

The inspectors of the metropolitan government are authorized and are instructed to observe the conduct of holders of certificates and permits operating under this chapter. Upon discovering a violation of the provisions of this chapter, the inspector may either report the violation to the licensing MTLC, which will order or take appropriate action, or issue a citation as authorized under Section 6.77.420.

Section 6.77.420 in turn provides in pertinent part:

##### **6.77.420 Violations-Penalties-Additional regulations.**

- a) All provisions of this chapter shall be governed by the penalties and procedures for general ordinance violations set forth in Section 1.01.030.
- b) Notwithstanding any provision contained herein, the MTLC shall have the authority to enforce the provisions of this chapter.

In the case of enforcement pursuant to Section 6.77.390, where the violation is reported to the licensing MTLC, if the MTLC determines after a properly noticed hearing (at which the alleged violator may appear, present evidence and be represented) that a violation occurred, the MTLC may suspend, revoke or place on probation the certificate holder's certificate or the driver's permit, as appropriate. In the case of enforcement via a citation as authorized under Section 6.77.420 and Section 1.01.030, the citation shall be tried by the Metropolitan Environmental Court in accordance its procedures, and as set forth in Metro Code Section 1.24.030, and upon a finding by the court that a violation occurred, the court may order civil penalties (fines) of \$50 per violation per day and/or injunctive relief. Likewise, the citation process described above may also be pursued against any unlicensed, unpermitted party who operates an ET within Davidson County.

The following constitute violations:

a) Certificate Holders

- 1) Allowing unpermitted entertainment vehicle to operate within the Metropolitan government area.
- 2) Allowing unpermitted person to operate an entertainment vehicle within the Metropolitan government area
- 3) Allowing unpermitted entertainment vehicle to operate without required liability insurance
- 4) Allowing entertainment vehicle to operate in an unsafe manner
- 5) Failing to report any changes in insurance to the MTLC immediately.
- 6) Failing to comply with a correction order issued to MTLC staff or the Metropolitan Police Department within the time specified in the order.
- 7) Failing to comply with the requirements established in Chapter 6.77 of the Metropolitan Code of Law or rules promulgated by the MTLC, or any other applicable federal, state or local law, ordinance or regulation.
- 8) Breaching the terms of the certificate.
- 9) Failing to pay required taxing and fees to the Metropolitan government, state of Tennessee or the federal government.
- 10) Failing to adequately train their company employees to comply with all provisions of Chapter 6.77 of the Metro Code and these regulations.

b) Driver Permitting

- 1) Operating an ET vehicle while under the influence of intoxicating beverages or drugs;
- 2) Operating an ET vehicle while possessing a lighted cigarette, cigar, e cigarettes, smokeless tobacco or pipe at any time;
- 3) A person not possessing an ET vehicle driver's permit to operate the ET vehicle.
- 4) Allowing more passengers to be carried in an ET vehicle than for which there is proper seating, and at no time shall the driver allow any passenger to ride in any area of the ET vehicle not specifically designed or designated as a seat;
- 5) Allowing a passenger twenty-one years of age or younger to ride in an ET vehicle unaccompanied by an adult chaperone.
- 6) Failure to observe and obey all state and local noise and traffic laws and regulations.
- 7) Failure to comply with all metropolitan government, state, and federal laws, ordinances and regulations.